

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

EUROPEAN COMMUNITY,

Plaintiff,

v.

RJR NABISCO, INC., *et al.*,

Defendants.

00 Civ. 6617 (NGG/VVP)

DEPARTMENT OF AMAZONAS, *et al.*,

Plaintiffs,

v.

PHILIP MORRIS COMPANIES INC., *et al.*,

Defendants.

00 Civ. 2881 (NGG/VVP)

00 Civ. 3857 (NGG/VVP)

00 Civ. 4530 (NGG/VVP)

(Consolidated)

NOTICE OF MOTION

PLEASE TAKE NOTICE that, in accordance with Philip Morris' Memorandum of Law in Support of its Motion to Dismiss Under Rules 12(b)(1) and (b)(7) the European Community Complaint for Lack of Subject Matter Jurisdiction and Lack of Indispensable Parties, the Declaration of Christopher D. Man and accompanying exhibits, the undersigned defendants will move this Court, before the Honorable Nicholas G. Garaufis, at the United States Courthouse, at a time and date to be set by the Court, for an Order, pursuant to Federal Rules of Civil Procedure 12(b)(1) and (b)(7):

- (i) dismissing the Complaint in its entirety with prejudice; and
- (ii) granting such other and further relief as the Court deems just and proper.

Dated: January 29, 2001

Respectfully submitted,

ARNOLD & PORTER

/s/ Irvin B. Nathan

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- and -

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Counsel for the Defendants
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Philip Morris Incorporated
Philip Morris International Inc.
Philip Morris Products Inc.
Philip Morris Duty Free, Inc.

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ORDER

WHEREAS, upon consideration of Philip Morris' Motion to Dismiss Under Rules 12(b)(1) and (b)(7) the European Community Complaint for Lack of Subject Matter Jurisdiction and Lack of Indispensable Parties, served January 29, 2001, and any response thereto, IT IS HEREBY ORDERED that:

1. Philip Morris' Motion to Dismiss Under Rules 12(b)(1) and (b)(7) the European Community Complaint for Lack of Subject Matter Jurisdiction and Lack of Indispensable Parties is GRANTED; and

2. Plaintiff's Complaint is DISMISSED in its entirety with prejudice.

Dated: _____

Hon. Nicholas G. Garaufis, U.S.D.J.